

§ 100.6 Procedures for review of citations and orders; procedures for assessment of civil penalties and conferences.

(a) All parties shall be afforded the opportunity to review with MSHA each citation and order issued during an inspection. It is within the sole discretion of MSHA to grant a request for a conference and to determine the nature of the conference.

(b) Upon notice by MSHA, all parties will have 10 days within which to submit additional information or request a safety and health conference with the District Manager or designee. A conference request may include a request to be notified of, and to participate in, a conference initiated by another party. A conference request must be in writing and must include a brief statement of the reason why each citation or order should be conferenced.

(c) When a conference is conducted, the parties may submit any additional relevant information relating to the violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may contact the parties to discuss the issues involved prior to the conference.

(d) MSHA will consider all relevant information submitted in a timely manner by the parties with respect to the violation. When the facts warrant a finding that no violation occurred, the citation or order will be vacated. Upon conclusion of the conference, or expiration of the conference request period, all citations that are abated and all orders will be promptly referred to MSHA's Office of Assessments. The Office of Assessments will use the citations, orders, and inspector's evaluation as the basis for determining the appropriate amount of a proposed penalty.

§ 100.7 Notice of proposed penalty; notice of contest.

(a) A notice of proposed penalty will be issued and served by certified mail, or the equivalent, upon the party to be charged and by regular mail to the representative of miners at the mine after

the time permitted to request a conference under § 100.6 expires, or upon the completion of a conference, or upon review by MSHA of additional information submitted in a timely manner.

(b) Upon receipt of the notice of proposed penalty, the party charged shall have 30 days to either:

(1) Pay the proposed assessment. Acceptance by MSHA of payment tendered by the party charged will close the case.

(2) Notify MSHA in writing of the intention to contest the proposed penalty. When MSHA receives the notice of contest, it advises the Federal Mine Safety and Health Review Commission (Commission) of such notice. No proposed penalty which has been contested before the Commission shall be compromised, mitigated or settled except with the approval of the Commission.

(c) If the proposed penalty is not paid or contested within 30 days of receipt, the proposed penalty becomes a final order of the Commission and is not subject to review by any court or agency.

§ 100.8 Service.

(a) All operators are required by part 41 (Notification of Legal Identity) of this chapter to file with MSHA the name and address of record of the operator. All representatives of miners are required by part 40 (Representative of Miners) of this chapter to file with MSHA the mailing address of the person or organization acting in a representative capacity. Proposed penalty assessments delivered to those addresses shall constitute service.

(b) If any of the parties choose to have proposed penalty assessments mailed to a different address, the Office of Assessments must be notified in writing of the new address. Delivery to this address shall also constitute service.

(c) Service for operators who fail to file under part 41 of this chapter will be upon the last known business address recorded with MSHA.

PARTS 101-103 [RESERVED]